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then applicable and copies of the original which are sworn to as true are admissible. *Hodnett v. Gault* (1901) 64 App. Div. (N. Y.) 163; *Hancock v. Hintrager* (1882) 60 Ia. 374. Thus a ledger like any other copy of original entries becomes competent evidence when the loss or innocent destruction of the book of original entry is established and a general balance may be introduced without introducing the separate items. *Rigby v. Logan* (1895) 45 S. C. 651. If the absence of the original is unaccounted for, or no explanation is given of its destruction, the copy is inadmissible. *Rouss v. McDowell* (1895) 88 Hun, 532; *Palmer v. Goldsmith* (1884) 15 Ill. App. 544. In admitting a copy much rests in the discretion of the trial judge. *Stephan v. Metzger* (1902) 95 Mo. App. 609. The principal case is in accord with the prevailing rule and in harmony with modern business methods.

S. J. T.

MASTER AND SERVANT—NEGLIGENCE—LIABILITY OF FATHER FOR SON'S NEGLIGENCE IN OPERATING PLEASURE CAR.—VAN BLARICOM V. DODGSON (1917) 8 DAILY RECORD (N. Y.) 56.—The defendant kept a motor car for pleasure purposes and convenience of his family. His adult son while operating the car with his father's permission, for his own pleasure and convenience, negligently drove over the plaintiff's intestate and killed him. *Held,* that the defendant was not liable for the negligence of his son as there was no agency established.

For a discussion of the principles involved in this case, see (1917) 26 YALE LAW JOURNAL, 327.

S. J. T.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—INJURY ARISING OUT OF EMPLOYMENT.—WALTHER V. AMERICAN PAPER CO. (1916) 99 ATL. (N. J.) 263.—A night watchman in a mill, while making his rounds, was struck over the head and killed by an employee of the same company who had entered the mill and hid himself without any intent to rob the office of the mill or to do any other mischief or crime except to rob the deceased. *Held,* that the deceased was not killed from an accident arising out of his employment under Workmen's Compensation Act (P. L. 1911, p. 134). Minturn and Kalisch, JJ., *dissenting.*

The language of the New Jersey act of 1911 is identical with the language of the English act of 1906 in that to warrant a recovery an employee must be injured by "accident arising out of and in the course of his employment." *Bryant v. Fissell* (1913) 84 N. J. L. 72. The terms "out of" and "in the course of" are not synonymous. *State ex rel. Duluth Brewing, etc., Co. v. District Ct.* (1915) 129 Minn. 176. If either of these elements is missing, there can be no recovery. *McNicol's Case* (1913) 215 Mass. 497. It has been said that under the New Jersey act an accident which is the result of a risk reasonably incident to the employment is an accident arising out of the employment. *Hulley v. Moosbrugger* (1915) 88 N. J. L. 161. But it is not necessary that it should be one reasonably to be anticipated as an incident to the employment. *Sponatski's Case* (1915) 220 Mass. 526. Ordinarily, assault by third persons cannot be considered as incidental to the employment, but